



General Assembly

January Session, 2003

Committee Bill No. 5095

LCO No. 3131

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT ADOPTING AMENDMENTS TO ARTICLE 4 OF THE UNIFORM
COMMERCIAL CODE CONCERNING BANK DEPOSITS AND
COLLECTIONS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsections (a) and (b) of section 42a-4-104 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2003*):

4 (a) In this article, unless the context otherwise requires:

5 (1) "Account" means any deposit or credit account with a bank,
6 including a demand, time, savings, passbook, share draft, or like
7 account, other than an account evidenced by a certificate of deposit. [;]

8 (2) ["afternoon"] "Afternoon" means the period of a day between
9 noon and midnight. [;]

10 (3) ["banking day"] "Banking day" means the part of a day on which
11 a bank is open to the public for carrying on substantially all of its
12 banking functions, but for the purpose of determining a bank's
13 midnight deadline [, as defined in subdivision (10) of this subsection,
14 shall] does not include Saturday. [;]

15 (4) ["clearinghouse"] "Clearinghouse" means an association of banks
16 or other payors regularly clearing items. [;]

17 (5) ["customer"] "Customer" means a person having an account with
18 a bank or for whom a bank has agreed to collect items, including a
19 bank that maintains an account at another bank. [;]

20 (6) ["documentary draft"] "Documentary draft" means a draft to be
21 presented for acceptance or payment if specified documents,
22 certificated securities, as defined in section 42a-8-102, or instructions
23 for uncertificated securities, as defined in section 42a-8-102, or other
24 certificates, statements, or the like are to be received by the drawee or
25 other payor before acceptance or payment of the draft. [;]

26 (7) ["draft"] "Draft" means a draft, as defined in section 42a-3-104, or
27 an item, other than an instrument, that is an order. [;]

28 (8) ["drawee"] "Drawee" means a person ordered in a draft to make
29 payment. [;]

30 (9) ["item"] "Item" means an instrument or a promise or order to pay
31 money handled by a bank for collection or payment, [. The term] but
32 does not include a payment order governed by article 4A or a credit or
33 debit card slip. [;]

34 (10) ["midnight deadline"] "Midnight deadline", with respect to a
35 bank, [is] means midnight on its next banking day following the
36 banking day on which it receives the relevant item or notice or from
37 which the time for taking action commences to run, whichever is later.
38 [;]

39 (11) ["settle"] "Settle" means to pay in cash, by clearinghouse
40 settlement, in a charge or credit or by remittance, or otherwise as
41 agreed. A settlement may be either provisional or final. [;]

42 (12) ["suspends payments"] "Suspends payments", with respect to a
43 bank, means that it has been closed by order of the supervisory

44 authorities, that a public officer has been appointed to take it over, or
45 that it ceases or refuses to make payments in the ordinary course of
46 business.

47 (b) Other definitions applying to this article and the sections in
48 which they appear are:

- T1 "Agreement for electronic presentment". Section 42a-4-110.
- T2 ["Bank". Section 42a-4-105.]
- T3 "Collecting bank". Section 42a-4-105.
- T4 "Depository bank". Section 42a-4-105.
- T5 "Intermediary bank". Section 42a-4-105.
- T6 "Payor bank". Section 42a-4-105.
- T7 "Presenting bank". Section 42a-4-105.
- T8 "Presentment notice". Section 42a-4-110.

49 Sec. 2. Section 42a-4-207 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2003*):

51 (a) A customer or collecting bank that transfers an item and receives
52 a settlement or other consideration warrants to the transferee and to
53 any subsequent collecting bank that:

54 (1) The warrantor is a person entitled to enforce the item;

55 (2) [all] All signatures on the item are authentic and authorized;

56 (3) [the] The item has not been altered;

57 (4) [the] The item is not subject to a defense or claim in recoupment,
58 as provided in subsection (a) of section 42a-3-305, of any party that can
59 be asserted against the warrantor; [and]

60 (5) [the] The warrantor has no knowledge of any insolvency
61 proceeding commenced with respect to the maker or acceptor or, in the

62 case of an unaccepted draft, the drawer; and

63 (6) With respect to any remotely-created consumer item, the person
64 on whose account the item is drawn authorized the issuance of the
65 item in the amount for which the item is drawn.

66 (b) If an item is dishonored, a customer or collecting bank
67 transferring the item and receiving settlement or other consideration is
68 obliged to pay the amount due on the item [(i)] (1) according to the
69 terms of the item at the time it was transferred, or [(ii)] (2) if the
70 transfer was of an incomplete item, according to its terms when
71 completed as stated in sections 42a-3-115 and 42a-3-407. The obligation
72 of a transferor is owed to the transferee and to any subsequent
73 collecting bank that takes the item in good faith. A transferor cannot
74 disclaim its obligation under this subsection by an endorsement stating
75 that it is made "without recourse" or otherwise disclaiming liability.

76 (c) A person to whom the warranties under subsection (a) of this
77 section are made and who took the item in good faith may recover
78 from the warrantor as damages for breach of warranty an amount
79 equal to the loss suffered as a result of the breach, but not more than
80 the amount of the item plus expenses and loss of interest incurred as a
81 result of the breach.

82 (d) The warranties stated in subsection (a) of this section cannot be
83 disclaimed with respect to checks. Unless notice of a claim for breach
84 of warranty is given to the warrantor within thirty days after the
85 claimant has reason to know of the breach and the identity of the
86 warrantor, the warrantor is discharged to the extent of any loss caused
87 by the delay in giving notice of the claim.

88 (e) A cause of action for breach of warranty under this section
89 accrues when the claimant has reason to know of the breach.

90 Sec. 3. Section 42a-4-208 of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2003*):

92 (a) If an unaccepted draft is presented to the drawee for payment or
93 acceptance and the drawee pays or accepts the draft, [(i)] (1) the person
94 obtaining payment or acceptance, at the time of presentment, and [(ii)]
95 (2) a previous transferor of the draft, at the time of transfer, warrant to
96 the drawee that pays or accepts the draft in good faith that:

97 [(1)] (A) The warrantor is, or was, at the time the warrantor
98 transferred the draft, a person entitled to enforce the draft or
99 authorized to obtain payment or acceptance of the draft on behalf of a
100 person entitled to enforce the draft;

101 [(2) the] (B) The draft has not been altered; [and]

102 [(3) the] (C) The warrantor has no knowledge that the signature of
103 the purported drawer of the draft is unauthorized; and

104 (D) With respect to any remotely-created consumer item, the person
105 on whose account the item is drawn authorized the issuance of the
106 item for which the item is drawn.

107 (b) A drawee making payment may recover from a warrantor
108 damages for breach of warranty equal to the amount paid by the
109 drawee less the amount the drawee received or is entitled to receive
110 from the drawer because of the payment. In addition, the drawee is
111 entitled to compensation for expenses and loss of interest resulting
112 from the breach. The right of the drawee to recover damages under
113 this subsection is not affected by any failure of the drawee to exercise
114 ordinary care in making payment. If the drawee accepts the draft [(i)]
115 (1) breach of warranty is a defense to the obligation of the acceptor,
116 and [(ii)] (2) if the acceptor makes payment with respect to the draft,
117 the acceptor is entitled to recover from a warrantor for breach of
118 warranty the amounts stated in this subsection.

119 (c) If a drawee asserts a claim for breach of warranty under
120 subsection (a) of this section based on an unauthorized endorsement of
121 the draft or an alteration of the draft, the warrantor may defend by

122 proving that the endorsement is effective under section 42a-3-404 or
123 42a-3-405 or the drawer is precluded under section 42a-3-406 or 42a-4-
124 406 from asserting against the drawee the unauthorized endorsement
125 or alteration.

126 (d) If [(i)] (1) a dishonored draft is presented for payment to the
127 drawer or an endorser, or [(ii)] (2) any other item is presented for
128 payment to a party obliged to pay the item, and the item is paid, the
129 person obtaining payment and a prior transferor of the item warrant to
130 the person making payment in good faith that the warrantor is, or was,
131 at the time the warrantor transferred the item, a person entitled to
132 enforce the item or authorized to obtain payment on behalf of a person
133 entitled to enforce the item. The person making payment may recover
134 from any warrantor for breach of warranty an amount equal to the
135 amount paid plus expenses and loss of interest resulting from the
136 breach.

137 (e) The warranties stated in subsections (a) and (d) of this section
138 cannot be disclaimed with respect to checks. Unless notice of a claim
139 for breach of warranty is given to the warrantor within thirty days
140 after the claimant has reason to know of the breach and the identity of
141 the warrantor, the warrantor is discharged to the extent of any loss
142 caused by the delay in giving notice of the claim.

143 (f) A cause of action for breach of warranty under this section
144 accrues when the claimant has reason to know of the breach.

145 Sec. 4. Subsection (a) of section 42a-4-212 of the general statutes is
146 repealed and the following is substituted in lieu thereof (*Effective*
147 *October 1, 2003*):

148 (a) Unless otherwise instructed, a collecting bank may present an
149 item not payable by, through, or at a bank by sending to the party to
150 accept or pay a [written] record providing notice that the bank holds
151 the item for acceptance or payment. The notice must be sent in time to
152 be received on or before the day when presentment is due and the

153 bank must meet any requirement of the party to accept or pay under
154 section 42a-3-501 by the close of the bank's next banking day after it
155 knows of the requirement.

156 Sec. 5. Section 42a-4-301 of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective October 1, 2003*):

158 (a) If a payor bank settles for a demand item other than a
159 documentary draft presented otherwise than for immediate payment
160 over the counter before midnight of the banking day of receipt, the
161 payor bank may revoke the settlement and recover the settlement if,
162 before it has made final payment and before its midnight deadline, it:

163 (1) [returns] Returns the item; [or]

164 (2) Returns an image of the item, if the party to which the return is
165 made has entered into an agreement to accept an image as a return of
166 the item and the image is returned in accordance with such agreement;
167 or

168 [(2) sends written] (3) Sends a record providing notice of dishonor
169 or nonpayment if the item is unavailable for return.

170 (b) If a demand item is received by a payor bank for credit on its
171 books, it may return the item or send notice of dishonor and may
172 revoke any credit given or recover the amount thereof withdrawn by
173 its customer, if it acts within the time limit and in the manner specified
174 in subsection (a) of this section.

175 (c) Unless previous notice of dishonor has been sent, an item is
176 dishonored at the time when for purposes of dishonor it is returned or
177 notice sent in accordance with this section.

178 (d) An item is returned:

179 (1) As to an item presented through a clearinghouse, when it is
180 delivered to the presenting or last collecting bank or to the

181 clearinghouse or is sent or delivered in accordance with clearinghouse
182 rules; or

183 (2) [in] In all other cases, when it is sent or delivered to the bank's
184 customer or transferor or pursuant to instructions.

185 Sec. 6. Subsection (b) of section 42a-4-403 of the general statutes is
186 repealed and the following is substituted in lieu thereof (*Effective*
187 *October 1, 2003*):

188 (b) A stop-payment order is effective for six months, but it lapses
189 after fourteen calendar days if the original order was oral and was not
190 confirmed in [writing] a record within that period. A stop-payment
191 order may be renewed for additional six-month periods by a [writing]
192 record given to the bank within a period during which the stop-
193 payment order is effective.

| | |
|----------------------------------------|------------------------|
| This act shall take effect as follows: | |
| Section 1 | <i>October 1, 2003</i> |
| Sec. 2 | <i>October 1, 2003</i> |
| Sec. 3 | <i>October 1, 2003</i> |
| Sec. 4 | <i>October 1, 2003</i> |
| Sec. 5 | <i>October 1, 2003</i> |
| Sec. 6 | <i>October 1, 2003</i> |

Statement of Purpose:

To adopt amendments to article 4 of the Uniform Commercial Code concerning bank deposits and collections in order to conform Connecticut commercial law with recent changes in the uniform law.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. ABRAMS, 83rd Dist.